

LABOUR DEPARTMENT

The 3rd November, 1980

No. 11(112)-80-8Lab/11452.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad in respect of the dispute between the workmen and the management of M/s Rangjyot Cotton O/3 Link Road, Faridabad :—

BEFORE SHRI M. C. BHARDWAJ PRESIDING OFFICER, INDUSTRIAL TRIBUNAL HARYANA,
FARIDABAD

Reference No. 317 of 1978

between

SHRI HUSSAN BUX, WORKMAN AND THE MANAGEMENT OF M/S. RANGJYOT COTTONS,
O/3 LINK ROAD, FARIDABAD

Present :

Shri P.K. De, for the workmen.

Shri W.C. Sharma, for the management.

AWARD

By order No. ID/113-78/35455, dated 31st July, 1978, the Governor of Haryana referred the following dispute between the management of M/s. Rangjyot Cottons, O/3 Link Road, Faridabad and its workman, Shri Hussan Bux to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether termination of services of Shri Hussan Bux, was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed 4th July, 1979 :—

1. Whether the workman is gainfully employed? If so to what effect?
2. Whether the workman obtained employment from the management by deceitful manner?
3. Whether the claim statement of the workman is defective? If so, in what respect and to what effect?
4. Whether wrong address of the management has been given? If so to what effect?
5. What is the date of appointed of the workman?
6. Whether the workman was a probationer?
7. Whether the management was entitled to discharge the workman in simpliciter?
8. Whether the workman was not suitable to the post?
9. Whether the termination of services of the workman was justified and in order?
10. Relief.

And the case was fixed for the evidence of the management. The management examined Shri Kamle Khatri as MW-1 and Shri V.K. Agarwal as MW-2 and closed their case. Then the case was fixed for the evidence of the workman who examined himself as his own witness and closed their case. Arguments were heard. It now gives my findings issue wise :—

Issues No. 3 & 4 :— These issues were not pressed by the parties.

Issue No. 5 :— The management produced letter Tx.M-4 which is offer of appointment. This letter is dated 1st Aug. 1977. The operative lines are as under :—

"With reference to your application dated 25th July, 1977 and interview on 28th July, 1977 we sent you this offer of appointment with effect from 8th August, 1977.

Please note that you will be on probation for six month in the first instance, which may be extended to one year, if considered necessary. If found suitable at the end of probation period, you will be placed in the grade of Rs. 325-20-505. P. M."

According to this letter the effective date is 8th August, 1977. According to the management the workman accepted this letter on 1st October, 1977. The workman has not assailed this date though he admitted his signatures on the above letter. Thus in these circumstances, it is held that the workman joined this concern on 1st October, 1977.

Issue No. 6 :—Letter Ex. M-4 in second para states :—

That you will be on probation for six months in the first instance, which may be extended to one year, if considered necessary.

Therefore, I decide this issue in favour of the management holding that the workman was a probationer.

Issues No. 2 and 8 :—The management produced Ex. MW-7 boiler attendant certificate from Delhi State Government. This certificate is under the Indian Boiler Act issued by the Chairman to the Board of Examiner Delhi State. It is in the statement of MW-1 that the workman did not give this certificate to the management at the time of his joining and that he was not a Welder. Ex. M-4 states that the workman was interviewed on 28th July, 1977 and offer of appointment was sent to him on the basis of that interview. Boiler Certificate was issued to the workman on 28th February, 1972. The management it seems wanted to get work from this workman of welding in addition to that of boiler. They cannot say now that he was not suitable for the post or that he obtained employment in a deceitful manner. It was for them to see the suitability at the time of interview and issue of letter of appointment. Therefore, this issue is decided against the management.

Issues No. 7 and 9 :—The representative for the management cited a number of rulings on the above subject. This is a settled law that the services of a probationer can be terminated at the expiry of the probation period without assigning any reason. The workman has been discharged of his service as a probationer. Therefore, these issues are decided in favour of the management.

Issue No. 1 :—The management produced Shri V. K. Agrawal MW-2 who stated that the name of the workman appear in his register for 29th August, 1978 to 31st August, 1978 for three days. This witness could not recognise the workman by face. Therefore, the management has not discharged their burden. Therefore, this issue is decided against the management.

Issue No. 10 :—The workman is not entitled to any relief.

While answering the reference, I give my award that the termination of services of the workman was justified and in order. The workman is not entitled to any relief.

Dated the 7th October, 1980.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal Haryana,
Faridabad:

No. 899, dated the 7th October, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

H. L. GUGNANI, Secy